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Attorneys for Defendant, Corrections Officer Jose Valentin, in his official and individual capacity

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ELIZABETH McNAIR, as
Administratrix ad Prosequendum of
the ESTATE OF DARRELL SMITH and
ELIZABETH McNAIR, Individually,

Plaintiff,

v.

STATE OF NEW JERSEY, DEPARTMENT OF
CORRECTIONS, SPECIAL TREATMENT
UNIT, ADULT DIAGNOSTIC & TREATMENT
CENTER, COMMISSIONER MARCUS O.
HICKS, in his official and
individual capacity, RAYMOND ROYCE
in his official and individual
capacity, NEW JERSEY DEPARTMENT OF
HEALTH, RUTGERS, THE STATE
UNIVERSITY OF NEW JERSEY, d/b/a
RUTGERS BIOMEDICAL & HEALTH
SCIENCES, UNIVERSITY CORRECTIONAL
HEALTH CARE, CHARICE POWELL, in
her official and individual
capacity, GUISEPPE MANDARA, in his
official and individual capacity,
HENRY ACEBO, in his official and
individual capacity, OFFICER
JAGDAT PERSAD, in his official and
individual capacity, OFFICER
MARZETTIE SHAMBERGER, in his
official and individual capacity,
SGT. FREDDIE RODRIGUEZ, in his
official and individual capacity,
OFFICER JOSE VALENTIN, in his

Civil Action No. 2:21-cv-01291

Civil Action

**ANSWER TO SECOND AMENDED
COMPLAINT, SEPARATE DEFENSES,
CROSSCLAIMS, RESERVATION OF
RIGHTS, DEMAND FOR STATEMENT
OF DAMAGES, REQUEST FOR
ALLOCATION, DESIGNATION OF
TRIAL COUNSEL, JURY DEMAND
and CERTIFICATION OF FILING**

official and individual capacity,
 OFFICER DAMION GILBERT, in his
 official and individual capacity,
 OFFICER RONY APONTE, in his
 official and individual capacity,
 OFFICER TIMOTHY FOSTER, in his
 official and individual capacity,
 OFFICER BENNY PEREZ, in his
 official and individual capacity,
 SGT. TIMMIE ORANGE, in his
 official and individual capacity,
 SGT. PHILIP RILEY, in his official
 and individual capacity, LT.
 ANTONIO COSTEIRO, in his official
 and individual capacity, LT.
 FRANCISCO ESTRADA, in his official
 and individual capacity, ARTHUR
 BREWER, M.D., CCGI, in his
 official and individual capacity,
 FRANK A. GHINASSI, PHD, in his
 official and individual capacity,
 JULIE WHITE, MSW, CCHP, in his
 official and individual capacity,
 IHUOMA NWACHUKWU, M.D., in her
 official and individual capacity,
 BHARATKUMAR R. PATEL, M.D., in his
 official and individual capacity,
 BENEDICTA KONAMAH, RN, in her
 official and individual capacity,
 BALMATEE NAIDOO, R.N., in her
 official and individual capacity,
 YVONNE P. PADEN, R.N., in her
 official and individual capacity,
 MARIE COLTILDE FLEURANTIN, R.N.,
 in her official and individual
 capacity, DELORES GUIDA, R.N., in
 her official and individual
 capacity, JOHN DOES 1-20, JANE
 ROES 1-20, in their official and
 individual capacity, and ABC
 COMPANY/CORPORATION, 1-10)
 (fictitious names)

Defendants.

Defendant, Corrections Officer Jose Valentin, in his official and individual capacity, by way of answer to the Second Amended Complaint filed against him, says:

PRELIMINARY STATEMENT

The allegations of this Preliminary Statement are denied.

SCOPE OF EMPLOYMENT/RATIFICATION

1. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

2. The allegations of this paragraph are denied.

3. The allegations of this paragraph are denied.

4. The allegations of this paragraph are denied.

5. The allegations of this paragraph are denied.

6. The allegations of this paragraph are denied.

NATURE OF THE CASE, JURISDICTION and VENUE

7. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

8. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

9. The allegations of this paragraph are denied.

THE PARTIES

10. The allegations of this paragraph are denied.

11. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

NJDOC, STU and ADTC Defendants

12. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

13. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

14. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

15. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

16. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

17. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

18. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

19. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

20. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

21. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

22. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

23. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

24. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

25. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

26. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

27. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

28. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

29. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

30. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

31. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

32. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

33. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

34. The allegations of this paragraph are denied.

35. The allegations of this paragraph are denied.

36. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

37. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

38. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

Medical Provider Defendants

39. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

40. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

41. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

42. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

43. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

44. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

45. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

46. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

47. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

48. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

49. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

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51. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

52. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

53. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

54. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

COMPLIANCE WITH NEW JERSEY TORT CLAIMS ACT

55. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

FACTUAL ALLEGATIONS

The Beatings, Torture and Homicide of Darrell Smith

56. The allegations of this paragraph are denied.

57. The allegations of this paragraph are denied.

58. The allegations of this paragraph are denied.

59. The allegations of this paragraph are denied.

60. The allegations of this paragraph are denied.

61. The allegations of this paragraph are denied.

62. The allegations of this paragraph are denied.

63. The allegations of this paragraph are denied.

64. The allegations of this paragraph are denied.

65. The allegations of this paragraph are denied.

66. The allegations of this paragraph are denied.

67. The allegations of this paragraph are denied.

68. The allegations of this paragraph are denied.

69. The allegations of this paragraph are denied.

70. The allegations of this paragraph are denied.

71. The allegations of this paragraph are denied.

72. The allegations of this paragraph are denied.

73. The allegations of this paragraph are denied.

74. The allegations of this paragraph are denied.

75. The allegations of this paragraph are denied.

76. The allegations of this paragraph are denied.

77. The allegations of this paragraph are denied.

78. The allegations of this paragraph are denied.

79. The allegations of this paragraph are denied.

80. The allegations of this paragraph are denied.

81. The allegations of this paragraph are denied.

82. The allegations of this paragraph are denied.

83. The allegations of this paragraph are denied.

84. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

85. The allegations of this paragraph are denied.

86. The allegations of this paragraph are denied.

87. The allegations of this paragraph are denied.

88. The allegations of this paragraph are denied.

89. The allegations of this paragraph are denied.

90. The allegations of this paragraph are denied.

91. The allegations of this paragraph are denied.

The Second Physical Assault

92. The allegations of this paragraph are denied.

93. The allegations of this paragraph are denied.

94. The allegations of this paragraph are denied.

95. The allegations of this paragraph are denied.

96. The allegations of this paragraph are denied.

97. The allegations of this paragraph are denied.

98. The allegations of this paragraph are denied.

Deliberate Indifference Serious Medical Needs

99. The allegations of this paragraph are denied.

100. The allegations of this paragraph are denied.

101. The allegations of this paragraph are denied.

102. The allegations of this paragraph are denied.

103. The allegations of this paragraph are denied.

104. The allegations of this paragraph are denied.

105. The allegations of this paragraph are denied.

106. The allegations of this paragraph are denied.

107. The allegations of this paragraph are denied.

108. The allegations of this paragraph are denied.

109. The allegations of this paragraph are denied.

110. The allegations of this paragraph are denied.

111. The allegations of this paragraph are denied.

112. The allegations of this paragraph are denied.

ADTC & STU Infirmary

113. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

114. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

115. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

116. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

117. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

118. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

119. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

120. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

121. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further

denies all allegations that may be deemed to be directed against him.

122. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

123. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

124. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

125. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

126. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

127. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

128. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

129. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to her proofs and further denies all allegations that may be deemed to be directed against him.

130. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

131. The allegations of this paragraph are denied.

132. The allegations of this paragraph are denied.

133. The allegations of this paragraph are denied.

134. The allegations of this paragraph are denied.

135. The allegations of this paragraph are denied.

143. The allegations of this paragraph are denied.

144. The allegations of this paragraph are denied.

145. The allegations of this paragraph are denied.

146. The allegations of this paragraph are denied.

147. The allegations of this paragraph are denied.

148. The allegations of this paragraph are denied.

149. The allegations of this paragraph are denied.

150. The allegations of this paragraph are denied.

151. The allegations of this paragraph are denied.

152. The allegations of this paragraph are denied.

153. The allegations of this paragraph are denied.

154. The allegations of this paragraph are denied.

155. The allegations of this paragraph are denied.

156. The allegations of this paragraph are denied.

157. The allegations of this paragraph are denied.

158. The allegations of this paragraph are denied.

159. The allegations of this paragraph are denied.

160. The allegations of this paragraph are denied.

161. The allegations of this paragraph are denied.

162. The allegations of this paragraph are denied.

163. The allegations of this paragraph are denied.

164. The allegations of this paragraph are denied.

165. The allegations of this paragraph are denied.

166. The allegations of this paragraph are denied.

167. The allegations of this paragraph are denied.

168. The allegations of this paragraph are denied.

169. The allegations of this paragraph are denied.

170. The allegations of this paragraph are denied.

The Custom, Pattern and Practice of Abuse

171. The allegations of this paragraph are denied.

172. The allegations of this paragraph are denied.

173. The allegations of this paragraph are denied.

174. The allegations of this paragraph are denied.

175. The allegations of this paragraph are denied.

176. The allegations of this paragraph are denied.

177. The allegations of this paragraph are denied.

178. The allegations of this paragraph are denied.

179. The allegations of this paragraph are denied.

180. The allegations of this paragraph are denied.

181. The allegations of this paragraph are denied.

**Prior and Subsequent Instances of Misconduct within the
NJDOC**

182. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

183. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

184. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

185. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

186. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

187. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

188. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

189. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

190. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his

proofs and further denies all allegations that may be deemed to be directed against him.

Prior Lawsuits

191. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

192. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

193. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

194. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

195. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

196. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

197. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

198. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

199. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his

proofs and further denies all allegations that may be deemed to be directed against him.

200. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

201. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

202. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

203. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

204. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations

contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

205. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

COUNT I
(8TH & 14TH Amendment Excessive Force - (42 U.S.C. § 1983)

206. The defendant has insufficient knowledge on which to form a belief as to the truth of the allegations contained in this paragraph and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

207. The allegations of this paragraph are denied.

208. The allegations of this paragraph are denied.

209. The allegations of this paragraph are denied.

210. The allegations of this paragraph are denied.

211. The allegations of this paragraph are denied.

212. The allegations of this paragraph are denied.

213. The allegations of this paragraph are denied.

214. The allegations of this paragraph are denied.

215. The allegations of this paragraph are denied.

216. The allegations of this paragraph are denied.

217. The allegations of this paragraph are denied.

218. The allegations of this paragraph are denied.

COUNT II
(Common Law Assault and Battery)

219. The allegations of this paragraph are denied.

220. The allegations of this paragraph are denied.

221. The allegations of this paragraph are denied.

222. The allegations of this paragraph are denied.

223. The allegations of this paragraph are denied.

224. The allegations of this paragraph are denied.

225. The allegations of this paragraph are denied.

COUNT III
(Unlawful Seizure - 42 U.S.C. § 1983 & Common Law

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

226. The allegations of this paragraph are denied.

227. The allegations of this paragraph are denied.

228. The allegations of this paragraph are denied.

229. The allegations of this paragraph are denied.

230. The allegations of this paragraph are denied.

231. The allegations of this paragraph are denied.

232. The allegations of this paragraph are denied.

233. The allegations of this paragraph are denied.

COUNT IV

Negligence/Medical Malpractice - All Defendants

The allegations of this count are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

COUNT V

Negligence - All Defendants

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

274. Since the allegations contained in this paragraph are not of facts but are conclusions of defendant's legal duties, the defendant makes no answer to them and leaves plaintiff to his proofs.

275. The allegations of this paragraph are denied.

276. The allegations of this paragraph are denied.

277. The allegations of this paragraph are denied.

278. The allegations of this paragraph are denied.

279. The allegations of this paragraph are denied.

COUNT VI

**(Conspiracy - 42 U.S.C. § 1985 (3) & Common Law
All Defendants**

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

280. The allegations of this paragraph are denied.

281. The allegations of this paragraph are denied.

282. The allegations of this paragraph are denied.

283. The allegations of this paragraph are denied.

284. The allegations of this paragraph are denied.

285. The allegations of this paragraph are denied.

286. The allegations of this paragraph are denied.

287. The allegations of this paragraph are denied.

288. The allegations of this paragraph are denied.

289. The allegations of this paragraph are denied.

290. The allegations of this paragraph are denied.

291. The allegations of this paragraph are denied.

292. The allegations of this paragraph are denied.

293. The allegations of this paragraph are denied.

COUNT VII

**Failure to Intervene - 42 U.S.C. § 1983, N.J.S.A. 10:6-2
& Common Law**

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

294. The allegations of this paragraph are denied.

295. The allegations of this paragraph are denied.

296. The allegations of this paragraph are denied.

297. The allegations of this paragraph are denied.

298. The allegations of this paragraph are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

299. The allegations of this paragraph are denied.

COUNT VIII
(42 U.S.C. § 1983 - 8th Amendment Cruel and Unusual Punishment & N.J.S.A. 10:6-2 (Excessive Force))

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

300. Since the allegations contained in this paragraph are not of facts but are conclusions of defendant's legal duties, the defendant makes no answer to them and leaves plaintiff to his proofs and further denies all allegations that may be deemed to be directed against him.

301. The allegations of this paragraph are denied.

302. The allegations of this paragraph are denied.

303. The allegations of this paragraph are denied.

304. The allegations of this paragraph are denied.

305. The allegations of this paragraph are denied.

COUNT IX
(42 U.S.C. § 1983 - N.J.S.A. 10:6-2(1); Article 1, Paragraph 12 Deliberate Indifference to Serious Medical Needs All Defendants)

306. The answer to the preceding counts are repeated

and made a part hereof as though set forth at length.

307. Since the allegations contained in this paragraph are not of facts but are conclusions of defendant's legal duties, the defendant makes no answer to them and leaves plaintiff to his proofs.

308. The allegations of this paragraph are denied.

309. The allegations of this paragraph are denied.

310. The allegations of this paragraph are denied.

311. The allegations of this paragraph are denied.

312. The allegations of this paragraph are denied.

313. The allegations of this paragraph are denied.

314. The allegations of this paragraph are denied.

315. The allegations of this paragraph are denied.

316. The allegations of this paragraph are denied.

317. The allegations of this paragraph are denied.

318. The allegations of this paragraph are denied.

319. The allegations of this paragraph are denied.

320. The allegations of this paragraph are denied.

321. The allegations of this paragraph are denied.

322. The allegations of this paragraph are denied.

COUNT X
Supervisor Liability - § 1983 and Common Law

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

The allegations of this count are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

COUNT XI
Negligent Hiring, Training Supervision & Retention

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

The allegations of this count are not directed against this defendant and, therefore, no answer is made to them except to deny any such allegations which may be deemed to be directed against this defendant.

COUNT XII
§ 1983, N.J.C.R.A., N.J.S.A 10:6-2 New Jersey
Constitution – Special Relationship
All Defendants

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

Since the allegations contained in this paragraph are not of facts but are conclusions of defendant's legal duties, the defendant makes no answer to them and leaves plaintiff to her proofs.

344. The allegations of this paragraph are denied.

345. Since the allegations contained in this paragraph are not of facts but are conclusions of defendant's legal

duties, the defendant makes no answer to them and leaves plaintiff to her proofs.

346. The allegations of this paragraph are denied.

347. The allegations of this paragraph are denied.

348. The allegations of this paragraph are denied.

349. The allegations of this paragraph are denied.

350. The allegations of this paragraph are denied.

351. The allegations of this paragraph are denied.

352. The allegations of this paragraph are denied.

353. The allegations of this paragraph are denied.

354. The allegations of this paragraph are denied.

COUNT XIII

Violation of the New Jersey Civil Rights Act - N.J.S.A.

10:6-1 & 2

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

355. The allegations of this paragraph are denied.

356. The allegations of this paragraph are denied.

357. The allegations of this paragraph are denied.

358. The allegations of this paragraph are denied.

359. The allegations of this paragraph are denied.

360. The allegations of this paragraph are denied.

COUNT XIV

42 U.S.C. § 1983 - Violation of First Amendment

(Against All Defendants)

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

361. The allegations of this paragraph are denied.

362. The allegations of this paragraph are denied.

363. The allegations of this paragraph are denied.

364. The allegations of this paragraph are denied.

365. The allegations of this paragraph are denied.

COUNT XV
(Negligent and Intentional Infliction of Emotional
Distress
(Against All Defendants)

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

366. The allegations of this paragraph are denied.

367. The allegations of this paragraph are denied.

368. The allegations of this paragraph are denied.

COUNT XVI
(Wrongful Death & Survivorship)

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

369. The allegations of this paragraph are denied.

370. The allegations of this paragraph are denied.

371. The allegations of this paragraph are denied.

COUNT XVII
(Wrongful Death & Survivorship)

The answer to the preceding counts are repeated and made a part hereof as though set forth at length.

372. The allegations of this paragraph are denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

At all times relevant hereto, the Represented Defendant has acted in good faith and without fraud or malice.

SECOND AFFIRMATIVE DEFENSE

The Represented Defendants have not deprived Plaintiff of any right, privilege or immunity secured to him by the New Jersey Constitution or any act of the Legislature of New Jersey.

THIRD AFFIRMATIVE DEFENSE

The complaint fails to state a claim against the Represented Defendant upon which relief may be granted.

FOURTH AFFIRMATIVE DEFENSE

The Represented Defendant is immune from suit.

FIFTH AFFIRMATIVE DEFENSE

Represented Defendant is an employee of an agency of the State of New Jersey and at all relevant times were performing acts within the scope of their official duties in good faith, without fraud or malice, and are immune from liability sought to be imposed upon them based on the doctrine of qualified immunity.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's suit is based on an impermissible theory of respondeat superior.

SEVENTH AFFIRMATIVE DEFENSE

Represented Defendant is entitled to all affirmative defenses available which arise from the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1 et seq.

EIGHTH AFFIRMATIVE DEFENSE

The complaint is barred by the doctrine of res judicata and/or collateral estoppel.

NINTH AFFIRMATIVE DEFENSE

Recovery is barred in this action by reason of the applicable statutes of limitations.

TENTH AFFIRMATIVE DEFENSE

Represented Defendant is not guilty of negligence and violated no duty to Plaintiff.

ELEVENTH AFFIRMATIVE DEFENSE

The action is so lacking in fact-based merit as to warrant dismissal with prejudice.

TWELFTH AFFIRMATIVE DEFENSE

Negligence, if any, on the part of the Represented Defendant is not the proximate cause of any injuries which may have been sustained by Plaintiff.

THIRTEENTH AFFIRMATIVE DEFENSE

Damages, if any, were the result of the Plaintiff's own actions and/or inactions.

FOURTEENTH AFFIRMATIVE DEFENSE

Damages, if any, sustained by the Plaintiff were the result of the actions of persons and/or entities over who the Represented Defendant had no control.

FIFTEENTH AFFIRMATIVE DEFENSE

Represented Defendant reserves the right to interpose each and every such separate defense that continuing investigation and discovery may indicate.

SIXTEENTH AFFIRMATIVE DEFENSE

State agencies or individual state employees acting in their official capacities are not persons capable of being sued within the meaning of 42 U.S.C. § 1983 or the New Jersey Civil Rights Act.

SEVENTEENTH AFFIRMATIVE DEFENSE

Represented Defendant is entitled to all defenses available under the New Jersey Civil Rights Act.

EIGHTEENTH AFFIRMATIVE DEFENSE

Represented Defendant did not violate any duty to Plaintiff.

NINETEENTH AFFIRMATIVE DEFENSE

Insofar as claims asserted against the Represented Defendants allege tortious acts, they are governed by and subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq. Failure to file a notice of claim pursuant to N.J.S.A. 59:8-1 precludes plaintiff from asserting those claims.

TWENTIETH AFFIRMATIVE DEFENSE

Insofar as claims asserted against the Represented Defendant gives rise to a contract claim, they are governed by and subject to the New Jersey Contractual Liability Act. N.J.S.A. 59:13-1 et seq. Failure to file a notice of claim pursuant to N.J.S.A. 59:13-5 precludes Plaintiff from asserting those claims.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Represented Defendant is not liable for acts taken in good faith in the enforcement of any law pursuant to N.J.S.A. 59:3-3.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Represented Defendant is not liable for injuries resulting from discretionary activities pursuant to N.J.S.A. 59:2-3.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Represented Defendant is not liable for his adoption of or failure to adopt any law or by their failure to enforce any law pursuant to the provisions of N.J.S.A. 59-3-5.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

Any liability that might otherwise be imposed upon Represented Defendant pursuant to N.J.S.A. 59:1-1, et seq. is subject to reduction by the limitations of proportionate liability set forth in N.J.S.A. 59:9-3.1.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

Any liability that might otherwise be imposed upon Represented Defendant pursuant to N.J.S.A. 59:1-1, et seq. is subject to reduction by the comparative negligence provisions set forth in N.J.S.A. 59:9-4.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

Any recovery to which Plaintiff may be entitled against Represented Defendant pursuant to N.J.S.A. 59:1-1, et seq. is

subject to the limitations and reductions on damages set forth in N.J.S.A. 59:9-2.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

Represented Defendant is subject to the immunities and the defenses provided by N.J.S.A. 59:2-1.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

Any actions taken by Represented Defendant was in the nature of discretionary activity within the meaning of N.J.S.A. 59:3-2, and accordingly, no liability may be imposed upon Answering Defendant.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Plaintiff's claims must be dismissed since Represented Defendant committed no violation of public policy.

THIRTIETH AFFIRMATIVE DEFENSE

Represented Defendant is not guilty of any negligence, wrongdoing, breach of duty or misconduct that was the proximate or producing cause of any injuries or damages alleged by plaintiff.

THIRTY-FIRST AFFIRMATIVE DEFENSE

Any injuries and damages were caused by and arose out of risks of which Plaintiff had full knowledge and which Plaintiff assumed.

THIRTY-SECOND AFFIRMATIVE DEFENSE

Represented Defendant owed no legal duty to the Plaintiff.

THIRTY-THIRD AFFIRMATIVE DEFENSE

Represented Defendant breached no duty owed to the Plaintiff.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

Represented Defendant performed each and every duty, if any, owed to the Plaintiff.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

Any action or inaction on the part of the Represented Defendant was a result of the exercise of judgment or discretion vested in the Represented Defendant within the meaning of the applicable law.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

The Represented Defendant acted in good faith and without malicious intent in carrying out all duties.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

Plaintiff has not pled and cannot establish a viable claim of constitutional deprivation due to a policy, practice or custom of constitutional violations.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

Punitive damages cannot be awarded against Represented Defendant under both common law and statute.

THIRTY-NINTH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to an award of economic damages against Represented Defendant.

FORTIETH AFFIRMATIVE DEFENSE

Plaintiff is not entitled to an award of interest against Represented Defendant.

FORTY-FIRST AFFIRMATIVE DEFENSE

Plaintiff failed to take reasonable and necessary measures to mitigate damages.

FORTY-SECOND AFFIRMATIVE DEFENSE

None of Plaintiff's statutory, constitutional or common law rights were violated.

FORTY-THIRD AFFIRMATIVE DEFENSE

Represented Defendant acted within the scope of its authority and, therefore, has qualified immunity.

FORTY-FOURTH AFFIRMATIVE DEFENSE

Represented Defendant is entitled to all affirmative defenses available which arise from the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e.

FORTY-FIFTH AFFIRMATIVE DEFENSE

Plaintiff has failed to exhaust her administrative remedies pursuant to the Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e(a).

FORTY-SIXTH AFFIRMATIVE DEFENSE

The Complaint fails to state a claim against this defendant upon which relief may be granted to the extent that said Complaint seeks the recovery of punitive damages which are unconstitutional on the following grounds:

- A. The award of punitive damages violates this defendant's rights under the Contracts Clause of Article I, Section 10;
- B. Punitive damages are impermissible under the Excessive Fines Clause of the Eighth Amendment to the Constitution of the United States.

FORTY-SEVENTH AFFIRMATIVE DEFENSE

This defendant is immune from punitive damages pursuant to New Jersey Law.

FORTY-EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claim for punitive damages is barred by the due process clause of the Fourteenth Amendment to the United States Constitution.

FORTY-NINTH AFFIRMATIVE DEFENSE

Plaintiff's claim for punitive damages is barred by the Eighth Amendment to the United States Constitution, applied to the states through the Fourteenth Amendment, prohibiting the imposition of excessive fines.

FIFTIETH AFFIRMATIVE DEFENSE

Plaintiff's claim for punitive damages is barred by the "double jeopardy" clause of the Fifth Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment.

FIFTY-FIRST AFFIRMATIVE DEFENSE

This defendant denies that it was guilty of any malicious or intentional conduct which would merit the award of a judgment for punitive damages.

FIFTY-SECOND AFFIRMATIVE DEFENSE

Plaintiff's failure to file an affidavit of merit must result in dismissal with prejudice of his professional/medical malpractice claims against Answering Defendant.

CROSSCLAIMS

CROSSCLAIM FOR CONTRIBUTION

This defendant demands judgment against all co-defendants under the provisions of the New Jersey Joint Tortfeasors Contribution Act, N.J.S.A. 2A:53a-1, et seq. and/or the provisions of the New Jersey Comparative Negligence Act, N.J.S.A. 2A:15-5.1, et seq.

WHEREFORE, this defendant hereby demands judgment against co-defendants for contribution, together with interest, attorneys' fees, expenses and costs of suit.

CROSSCLAIM FOR COMMON LAW INDEMNIFICATION

While denying negligence on its part, this defendant alleges that if he is found to have been negligent, such negligence would be vicarious, secondary and passive, whereas the negligence of any or all of the co-defendants was active and primary.

This defendant hereby demands judgment against all co-defendants for common law indemnification together with interest and costs of suit.

WHEREFORE, this defendant demands judgment against each and every co-defendant for all sums of money which may be assessed against this defendant in favor of the plaintiffs together with costs of suit and attorneys' fees.

RESERVATION OF RIGHTS

Represented Defendant reserves the right, at or before trial, to move to dismiss the Complaint and/or move for summary judgment on the grounds that the Complaint fails to state a claim upon which relief can be granted and/or Defendant is entitled to judgment as a matter of law.

DEMAND FOR STATEMENT OF DAMAGES

The defendant demands that plaintiffs provide within the time provided by the Rules of Court a statement of the amount of damages claimed in this matter.

REQUEST FOR ALLOCATION

If any co-defendant settles the within matter prior to trial, this defendant shall seek an allocation of the percentage of negligence by the finder of fact against the settling defendant.

Pursuant to Young v. Latta, 123 N.J. 584 (1991), Answering Defendants hereby advise that if any co-Defendant settles the within matter prior to conclusion of trial, the liability of any settling co-Defendants shall remain an issue and Answering Defendants shall seek an allocation of percentage of negligence by the finder of fact against such a settling co-Defendant and/or a credit in favor of Answering Defendants consistent with such allocation.

Furthermore, Answering Defendants hereby advise that they intend to seek an allocation of the percentage of negligence by the finder of fact against any and all persons, entities and/or tortfeasors who may have caused and or contributed to the happening of the accident, incident, exposure, injuries or damages claimed in this lawsuit whether or not such tortfeasors have been joined as parties to this action, and that this shall constitute Answering Defendants' "fair and timely" notice of such intention to all parties, pursuant to the principles set forth in Young v. Latta, 123 N.J. 584 (1991); Bolz v. Bolz, 400 N.J. Super. 154 (App.Div 2008); Jones v. Morey's Pier, Inc., 230

N.J. 142 (2017); Krzykalski v. Tindal, 2018 N.J. LEXIS 484, and Maison v. NJT Corp., A. 3d. 2021; 2021 WL 608269 (NJ 2021) and similar cases interpreting the Comparative Negligence Act N.J.S.A. 2A:15-5.1 et seq. and the Joint Tortfeasor Contribution Law N.J.S.A. 2A:53A-1 et seq.

DESIGNATION OF TRIAL COUNSEL

In accordance with R.4:25-4, Thomas C. Hart has been designated as trial counsel in this matter.

JURY DEMAND

The defendant demands a trial by jury as to all issues involved.

FILING AND MAILING CERTIFICATION

I hereby certify that within my current knowledge, the matter in controversy is not the subject of any other action pending in any Court or pending arbitration proceedings and no such other actions or arbitration proceedings are contemplated and no other party should be joined.

I hereby certify that the within Answer to the Second Amended Complaint has been electronically filed with the Clerk of the United States District Court - District of New Jersey and that true copies have been served upon all counsel of record on this date via e-filing.

RUPRECHT HART RICCIARDULLI & SHERMAN, LLP
Attorneys for defendant,
Corrections Officer Jose Valentin

/s/ Thomas C. Hart

By: _____
Thomas C. Hart

Dated: July 26, 2022